



Save the Sound[®]

Action for our region's environment.

February 28, 2025

Gary Goeschel
Wetlands Enforcement Officer
East Lyme Inland Wetlands Agency
108 Pennsylvania Ave.
Niantic, CT 06357

Dear Mr. Goeschel:

Please find attached a letter on behalf of Save the Sound that we would like entered into the record at the March 4 meeting of the East Lyme Inland Wetlands Agency. To avoid any potential ex parte communications issues, this has not been sent directly to any of the members of the Inland Wetlands Agency.

Sincerely,

s/ Chase Lindemann

Chase Lindemann

Peter B. Cooper Legal Fellow

Save the Sound

127 Church Street, 2d Floor

New Haven, CT 06510

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clindemann@savethesound.org



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**East Lyme Inland Wetlands Agency
108 Pennsylvania Ave.
Niantic, CT 06357**

RE: Clear Cutting at the Landmark Property

Dear Members of the East Lyme Inland Wetlands Agency:

Save the Sound writes to the Inland Wetlands Agency (IWA) concerning enforcement of IWA's conditional approval of Landmark's 2017 Application for a Determination of Non-Regulated Activity for a Tree Farm. While the application was for a tree farm of roughly five acres, it seems clear cutting has taken place on what may be over 50 acres. It is not clear that applicant has complied with conditions placed on IWA's approval and the activities may be more related to future planned developments than the roughly five-acre tree farm applied for.

Save the Sound is a nonprofit organization representing over 4,480 member households and 19,000 activists throughout the Long Island Sound region. Our mission is to protect and improve the region's land, air, and water. Save the Sound is committed to environmental justice and works, among other things, to protect open space and to counteract the disproportionate environmental burdens placed on communities of color and working-class residents. To achieve our mission and goals, we use legal and scientific expertise and bring communities together to achieve results that benefit our environment for current and future generations.

Inland Wetlands Agency Meeting – September 2017

On September 11, 2017, the applicant submitted an application to the East Lyme Inland Wetlands Agency ("IWA") for a Determination of Non-regulated activity for a Tree Farm at Oswegatchie Hills, which was to be known as the River Valley Farm. *East Lyme Inland Wetlands*

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Agency Meeting Minutes 2 (Sept. 11, 2017). The applicant asked the IWA to determine that the activities associated with the River Valley Farm were exempt from the IWA's jurisdiction. *Id.* At the meeting, the applicant stated that the farm would be about 5 acres but noted that "depending on how it goes they will expand to more areas." *Id.* at 3. The applicant also stated that the tree farm was going to consist mostly of white pine trees. *Id.* At the closing of the meeting, the IWA approved the application and determined that the activities contained in the application were directly related to the farming operation and were therefore permitted as of right under the Inland Wetlands and Watercourses Act. *Id.* at 5. However, this approval did not come without concerns from IWA and conditions being placed on the approval. Three formal conditions were placed on the IWA's approval of the application:

- 15-20 days before work began, the applicant needed to review plan changes with the Inland Wetlands Agent to confirm the extent of the repair work to be undertaken;
- Two days prior to the start of work, the applicant must notify the Inland Wetlands Agent;
- Upon completion of all regulated activities, the Inland Wetlands Agent must be notified to determine whether any Inland Wetlands regulations have been violated.

Id. In addition to these formal conditions, the following requests and comments were made by the IWA and its Inland Wetlands Agent during the discussion:

- Cheryl Lozanov asked that the contact information of the applicant's forester or supervising harvester be kept on file with the town.
- Gary Goeschel, East Lyme's Inland Wetlands Agent, believed that it would be in the applicant's best interest to hire a wetland scientist.



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- Ms. Lozanov requested that the applicant provide Mr. Goeschel with before and after pictures.
- Phyllis Berger noted that she would like silt fences and best management practices to be used.
- Ms. Lozanov asked the applicant to use a licensed forester who would provide an erosion/sedimentation plan.

Id. at 3–5. Despite many inquiries, as outlined below, we have been unable to determine whether the IWA's requests and conditions have been complied with and have reasons to believe that the activities extend well beyond the authorization.

Clear Cutting at the Landmark Property

On June 5, 2023, Kristin Lambert forwarded photos of logging equipment via email to Mr. Goeschel and asked whether he was aware of the activity. Mr. Goeschel replied that he wasn't aware of the activity and appreciated the information. Ms. Lambert asked whether this was something that should be investigated but never received a subsequent response. In August 2024, residents of East Lyme observed through satellite and drone images massive clear cutting that had occurred on the Landmark property. On August 20, 2024, Ms. Lambert and Greg Decker met with Mr. Goeschel to inquire about Landmark's compliance with the conditions placed on the IWA's 2017 approval. Mr. Goeschel said that he had been on the property and had not witnessed any violations. Following that meeting, Ms. Lambert sent emails on September 8th and September 18th to Mr. Goeschel about ongoing activity at the Landmark property but received no response from Mr. Goeschel.



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Attached is an aerial photograph of the property taken on January 16, 2025. The image has been enhanced and overlain to show the property boundary lines, the Coastal Management Zone, the sewer service district lines, and Landmark's most recent proposal to develop the property sent to the East Lyme town attorney, Mark Zamarka, on December 21, 2021. Based on the image, the activity appears to be more related to developing the property per the applicant's multiple applications to the East Lyme Zoning Commission submitted over the last two decades (none of which have been approved) than it does to a five-acre tree farm.

Inland Wetlands Agency Meetings

On October 1, 2024, Ms. Lambert spoke to the IWA about the clear cutting. Ms. Lambert asked whether the IWA was made aware of the clear cutting and explained why the Friends of the Oswegatchie Hills Nature Preserve believed that the applicant had not complied with the conditions placed on the IWA's 2017 approval. *East Lyme Inland Wetlands Agency Meeting Minutes 1* (Oct. 1, 2024). On January 7, 2025, Donald Danila spoke at the IWA meeting, showing the Agency a video of the clear cutting. *East Lyme Inland Wetlands Agency Meeting Minutes 1* (Jan. 7, 2025). In conclusion, the IWA stated that there should be a Cease and Desist of the clear cutting. *Id.*

Violations of As of Right Permission

Save the Sound believes the applicant may have acted illegally and beyond their "as of right" permission under the Inland Wetlands and Watercourses Act (IWWA). Under the IWWA, "[g]razing, farming, nurseries, gardening and harvesting of crops and farm ponds of three acres or less essential to the farming operation" are permitted as of right in wetlands and watercourses. Conn. Gen. Stat. § 22a-40(a)(1). Clear cutting of timber is generally excluded from "as of right" farming except when the clear cutting is done for the expansion of agricultural crop land. *Id.*



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In order for clear cutting to be covered under the “as of right” exception, the clear cutting must be accompanied by additional evidence of the expansion of agricultural crop land.

Following Mr. Danila’s presentation, the members discussed how the cutting performed on the Landmark property was well beyond the guise of the IWA’s 2017 approval for “5 acres or more.”

The IWA indicated that a Cease and Desist order should be issued, and that the applicant should come forward with evidence that agricultural activities will be performed. To date, however, members of the public have been unable to ascertain the status of that order despite numerous inquiries.

Save the Sound urges the IWA to fulfill its obligations to fully investigate and enforce its regulations. Clear cutting on this scale drastically increases the property’s surface runoff, which can have disastrous impacts to the property’s wetlands and the Niantic River. It appears the applicant may have expanded the scale of its activities without informing the IWA, failed to abide by the conditions placed on the IWA’s 2017 approval of its activities, and increased the project to the scale of its proposed development rather than the tree farm activity that was applied for and approved by the IWA.

Sincerely,

s/ Chase Lindemann

Chase Lindemann

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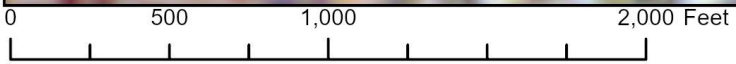
Enclosure

CC: Mark Zamarka
Brian Thompson
Karen Michaels
Marybeth Hart



Image: Copernicus Sentinel 2

- Cleared Land (ground visible)
- CAM Boundary - src 2015 survey
- Sewer Shed Limit - src 2015 survey
- Property Boundary - src 2015 survey



Approximate clearing as of 01/16/2025 (~ 52.7 acres)
 Map for general reference only